0000130862

MEMORANDUM

TO: Docket Control

FROM: Steven M. Olea   *EA for SMO*
Director
Utilities Division

DATE: November 1, 2011

RE: IN THE MATTER OF THE APPLICATION OF DSLNET COMMUNICATIONS, LLC FOR APPROVAL TO CANCEL ITS CERTIFICATE OF CONVENIENCE AND NECESSITY. (DOCKET NO. T-03727A-11-0360)

Attached is the Staff Report for the above referenced application. The applicant is applying for approval to cancel its Certificate of Convenience and Necessity ("CC&N") to provide the following services:

- Resold Interexchange Services
- Facilities-Based Interexchange Services
- Resold Local Exchange Services
- Facilities-Based Local Exchange Services
- Access Services

Staff recommends cancellation of the CC&N.

SMO:LLM:red

Originator: Lori L. Morrison

Attachment: Original and Thirteen Copies

Arizona Corporation Commission
DOCKETED
NOV 1 2011

DOCKETED BY

AZ CORP COMMISSION
DOCKET CONTROL
2011 NOV -1 P 1:03
RECEIVED

SERVICE LIST FOR: DSLNET COMMUNICATIONS, LLC
DOCKET NO. T-03727A-11-0360

Mr. Michael W. Patten
Roshka, DeWulf & Patten, PLC
One Arizona Center
400 East Van Buren Street, Suite 800
Phoenix, Arizona 80004

STAFF REPORT
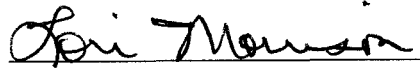UTILITIES DIVISION
ARIZONA CORPRATION COMMISSION

DSLNET COMMUNICATIONS, LLC
DOCKET NO. T-03727A-11-0360

IN THE MATTER OF THE APPLICATION OF DSLNET COMMUNICATIONS, LLC FOR
APPROVAL TO CANCEL ITS CERTIFICATE OF CONVENIENCE AND NECESSITY

NOVEMBER 1, 2011

STAFF ACKNOWLEDGEMENT

The Staff Report for the application of DSLnet Communications, LLC, Docket No. T-03727A-11-0360, for approval to cancel its Certificate of Convenience and Necessity was the responsibility of the staff member listed below. Lori Morrison was responsible for the review and analysis of the application.

Lori Morrison
Utilities Consultant

INTRODUCTION

On September 23, 2011, DSLnet Communications, LLC ("DSLnet" or "Company") submitted an application requesting withdrawal of its Certificate of Convenience and Necessity ("CC&N") to provide resold and facilities-based interexchange, resold and facilities-based local exchange and access telecommunications services within the State of Arizona. DSLnet is also withdrawing Arizona Tariff No. 1. DSLnet states that due to intra-company reorganization, its CC&N is no longer needed.[1]

BACKGROUND

On April 3, 2000, in Decision No. 62409, the Commission granted DSLnet a CC&N to provide resold and facilities-based interexchange, resold and facilities-based local exchange and access telecommunications services within the State of Arizona. On February 10, 2000, DSLnet docketed a performance bond in the amount of $34,000 in Docket No. T-03727A-99-0193.

STAFF'S ANALYSIS

DSLnet in its application, states it is not providing jurisdictional services to any customers in Arizona. In its October 11, 2011 response to Staff Data Request ("SDR") STF 1.1(a) and STF 1.2, DSLnet states that it has never provided regulated intrastate services in Arizona; it only provides high speed access to Internet interstate services. On page 6 of the application, DSLnet requests a waiver of the notice requirements in Arizona Administrative Code ("A.A.C.") R14-2-1107(A)(2) because DSLnet is not providing regulated intrastate services to any customers in Arizona. DSLnet has affirmed, in response to SDR STF 1.6, that it did not collect advances, deposits, and/or prepayments from customers in Arizona because it never provided intrastate services in Arizona.

The Consumer Services Section of the Utilities Division reports that there have been zero (0) complaints, inquiries, or opinions against DSLnet from January 1, 2008 to October 13, 2011. According to the Corporations Division, DSLnet is in good standing. DSLnet's 2010 utility annual report is currently on file with the Commission. The Compliance Section reports that there that there are no current compliance delinquencies for DSLnet.

---

[1]   On pages 1-2 of the application, DSLnet states that certain intra-company transactions are to take place among the wholly-owned subsidiaries of CCGI Holding Corporation, which includes DSLnet and DIECA Communications, Inc. ("DIECA"), which also holds an Arizona CC&N (Decision No. 61942, effective September 17, 1999). The merger of unregulated affiliate MegaPath, Inc., Covad Communications Company, DSLnet, DSLnet-VA and DIECA into DIECA with DIECA being the surviving entity will be undertaken as an internal *pro forma* under a single "Megapath" branded company, combining the individual operations of the various affiliate entities. At the end of the reorganization, DSLnet will no longer exist and will no longer require an Arizona CC&N.
       Because neither DSLnet nor DIECA are Class A utilities, the Commission's Public Utility Holding Companies and Affiliated Interest rules (A.A.C. R14-2-801 et seq.) do not apply to the internal reorganization.

RECOMMENDATION

DSLnet is not currently providing resold or facilities-based interexchange or resold or facilities-based local exchange telecommunications services to any customers in Arizona and it never collected deposits, advances or prepayments from Arizona customers. As such, Staff recommends approval of DSLnet's request for a waiver of the requirement to publish notice contained in A.A.C. R14-2-1107(A)(2). Staff further recommends that DSLnet's CC&N to provide resold and facilities-based interexchange and resold and facilities-based local exchange and access telecommunications services be cancelled. In addition, Staff recommends that the cancellation not become effective until a decision is issued by the Commission authorizing such cancellation. Upon cancellation of its CC&N, DSLnet will no longer be authorized to provide resold and facilities-based interexchange and resold and facilities-based local exchange and access telecommunications services in Arizona. Therefore, DSLnet will no longer be subject to the requirements of Decision No. 62409. In addition, Staff recommends DSLnet's Arizona tariff be cancelled and withdrawn.